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Oregon Administrative Rules
Relating to Compensation Disclosure Requirements
(OAR 836-071-0260 and 836-071-0263)

And

Relating to Incidental Charges
(OAR 836-071-0267)

Fees and Disclosure Requirements

836-071-0260

Fees charged by Insurance Producers

(1) When an insurance producer or any affiliate of the insurance producer receives any compensation authorized under ORS 735.455, 744.091 or 744.093 from a prospective insured for transacting insurance, neither the insurance producer nor the affiliate may accept or receive any compensation from an insurer or other third party for the placement of insurance for the prospective insured unless the insurance producer, prior to the prospective insured's purchase of insurance, has:

(a) Obtained the prospective insured's documented acknowledgment that the compensation will be received by the insurance producer or affiliate;

(b) Disclosed the amount of compensation from the insurer or other third party for the placement. If the amount of compensation is not known at the time of disclosure, the insurance producer shall disclose the specific method for calculating the compensation and, if possible, a reasonable estimate of the amount; and

(c) Disclosed the nature of the work that the insurance producer or affiliate will perform on behalf of the prospective insured.

(2) When an insurance producer or any affiliate of the insurance producer receives any compensation authorized under ORS 735.455, 744.091 or 744.093 from a prospective insured for transacting insurance and receives no compensation from an insurer or other third party for placement of insurance for the prospective insured, the insurance producer or affiliate must obtain the prospective insured's documented acknowledgement that the compensation will be received by the insurance producer and must disclose the nature of the work that the insurance producer or affiliate will perform on behalf of the prospective insured.

(3) A person is not a prospective insured for the purpose of this rule if the person is merely:

(a) A participant or beneficiary of an employee benefit plan; or

(b) Covered by a group or blanket insurance policy or group annuity contract sold, solicited or negotiated by the insurance producer or affiliate.

(4) This rule does not apply to any of the following persons:

(a) An insurance producer when the insurance producer acts only as an intermediary between an insurer and the prospective insured's insurance producer, such as a managing general agent, a wholesale insurance producer under ORS 744.093, a surplus lines licensee when transacting insurance with a producing insurance producer under ORS 735.455 or a sales manager.

1 (b) An insurance producer with respect to an incidental charge that is received from the
2 prospective insured and is authorized under OAR 836-071-0267.

3 (c) A reinsurance intermediary.

4 (5) As used in this rule:

5 (a) "Affiliate" means a person that controls, is controlled by or is under common control
6 with the insurance producer.

7 (b) "Compensation from an insurer or other third party" means payments, commissions,
8 fees, awards, overrides, bonuses, contingent commissions, loans, stock options, gifts, prizes or
9 any other form of valuable consideration, whether or not payable pursuant to a written
10 agreement.

11 (c) "Compensation from a prospective insured" does not include any fee or amount
12 collected by or paid to the insurance producer that does not exceed an amount established by the
13 Director.

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15 Stat. Auth.: ORS 731.244, 735.455, 744.091 and 744.093

16 Stats. Implemented: ORS 735.455, 744.091 and 744.093

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18 **836-071-0263**

19 **Fees charged by Insurance Consultants or Insurance Producers**

20 (1) When an insurance consultant or an affiliate of an insurance consultant receives from
21 a prospective insured any compensation authorized under the Insurance Code or rules adopted
22 thereunder, neither the insurance consultant nor the affiliate may accept or receive any
23 compensation from an insurer or other third party for services provided the prospective insured
24 in addition to the compensation paid by the prospective insured unless the insurance consultant,
25 prior to the transaction:

26 (a) Has obtained the prospective insured's documented acknowledgment that the
27 compensation will be received by the insurance consultant or affiliate; and

28 (b) Disclosed the amount of compensation from the insurer or other third party for that
29 placement. If the amount of compensation is not known at the time of disclosure, the insurance
30 consultant shall disclose the specific method for calculating the compensation and, if possible, a
31 reasonable estimate of the amount.

32 (2) When an insurance producer or an affiliate of an insurance producer receives any
33 compensation otherwise authorized under the Insurance Code or OAR 836-071-0269 to 836-071-
34 0277 from a prospective insured, neither the insurance producer nor the affiliate may accept or
35 receive any compensation from an insurer or other third party for the placement of insurance in
36 the same or related transaction unless the insurance producer, prior to the prospective insured's
37 purchase of insurance, has:

38 (a) Obtained the prospective insured's documented acknowledgment that the
39 compensation will be received by the insurance producer or affiliate; and

40 (b) Disclosed the amount of compensation from the insurer or other third party for that
41 placement. If the amount of compensation is not known at the time of disclosure, the insurance
42 producer shall disclose the specific method for calculating the compensation and, if possible, a
43 reasonable estimate of the amount.

44 (3) A person is not a prospective insured for the purpose of this rule if the person is
45 merely:

46 (a) A participant or beneficiary of an employee benefit plan; or

1 (b) Covered by a group or blanket insurance policy or group annuity contract sold,
2 solicited or negotiated by the insurance producer or affiliate.

3 (4) This rule does not apply to:

4 (a) An insurance producer with respect to a transaction to which ORS 735.455, 744.091
5 or 744.093 applies;

6 (b) An insurance producer when the insurance producer acts only as an intermediary
7 between an insurer and the prospective insured's insurance producer, such as a managing general
8 agent, a wholesale insurance producer under ORS 744.093, a surplus lines licensee when
9 transacting insurance with a producing insurance producer under ORS 735.455 or a sales
10 manager;

11 (c) An insurance producer with respect to an incidental charge that is received from the
12 prospective insured and is authorized under OAR 836-071-0267; or

13 (d) A reinsurance intermediary.

14 (5) As used in this rule:

15 (a) "Affiliate" means a person that controls, is controlled by or is under common control
16 with the insurance consultant or insurance producer.

17 (b) "Compensation from an insurer or other third party" means payments, commissions,
18 fees, awards, overrides, bonuses, contingent commissions, loans, stock options, gifts, prizes or
19 any other form of valuable consideration, whether or not payable pursuant to a written
20 agreement.

21 (c) "Compensation from a prospective insured" does not include any fee or amount
22 collected by or paid to the insurance producer that does not exceed an amount established by the
23 Director.

24 **Incidental Charges**

25 **836-071-0267**

26 **Incidental Charges for Customer Services; Personal, Commercial Lines**

27 (1) This rule establishes incidental charges that an insurance producer may impose for
28 customer services in connection with the transaction of insurance. For the purpose of this rule,
29 personal lines insurance is property and casualty insurance coverage sold to individuals and
30 families for primarily noncommercial purposes.

31 (2) An insurance producer may impose an incidental charge established in this rule on a
32 customer only if the insurance producer has given written notice to the customer that the
33 insurance producer may impose incidental charges authorized by this rule. The notice must
34 disclose all incidental charges that the insurance producer may impose and the service provided
35 for each incidental charge. The insurance producer must give the notice to a customer before
36 providing any service for which an incidental charge may be imposed, but not later than at the
37 time of application or the renewal before the insurance producer commences imposing the
38 incidental charges. The written notice requirement does not apply to the binding or issuance of a
39 policy. At the time an insurance producer charges an incidental charge under this rule, the
40 insurance producer must clearly disclose to the customer the amount of the incidental charge and
41 the service for which the incidental charge is imposed.

42 (3) An insurance producer may impose an incidental charge for rewriting or reinstating a
43 policy that was cancelled by the insurer because of an action or inaction of the customer, such as
44 nonpayment of premium or failure to renew according to policy terms, as provided in this
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1 section. An insurance producer may not impose the incidental charge for the first rewriting or
2 reinstatement of the policy. The incidental charges are as follows:

3 (a) A charge not to exceed \$25 for personal lines insurance.

4 (b) A charge not to exceed \$100 for commercial insurance.

5 (4) An insurance producer may impose an incidental charge for taking a payment of
6 premium in cash, in an amount not to exceed \$10.

7 (5) An insurance producer may impose an incidental charge as authorized by ORS 30.701
8 for handling and collecting on a check from a customer that is returned for insufficient funds.

9 (6) An insurance producer may impose an incidental charge for the actual cost of
10 providing photographic or inspection services to a customer in connection with issuing or
11 amending insurance coverage, but the incidental charge may not exceed:

12 (a) \$7.50 for the services in connection with issuing or amending personal insurance
13 coverage.

14 (b) \$45 for the services in connection with issuing or amending commercial insurance
15 coverage.

16 (7) An insurance producer may impose an incidental charge for the actual cost of
17 obtaining a motor vehicle report from the Motor Vehicle Division of the Oregon Department of
18 Transportation or from the comparable agency in another state, but the charge may not exceed
19 \$4.

20 (8) An insurance producer may impose an incidental charge not to exceed \$5 for
21 preparing a duplicate insurance identification card at the request of a customer, when the
22 customer requests the preparation of the card instead of waiting for the insurance identification
23 card prepared by the insurer.

24 (9) An insurance producer may impose an incidental charge not to exceed \$10 for each
25 endorsement to a personal lines insurance policy that is in addition to the first six other
26 endorsements by the insurance producer to the policy within a six-month period.

27 (10) An insurance producer may impose an incidental charge not to exceed \$5 for
28 obtaining a duplicate SR22 filing on behalf of a customer when the customer has lost or
29 misplaced the original SR22 filing.

30 (11) An insurance producer may impose an incidental charge not to exceed \$5 for each
31 certificate of commercial insurance coverage issued by the insurance producer that is in addition
32 to the first 20 certificates requested by the customer for the commercial insurance policy during a
33 policy period.

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35 Stat. Auth.: ORS 731.244 and 744.077

36 Stats. Implemented: ORS 744.077

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